

### **REMARKS**

This paper is responsive to any paper(s) indicated above, and is responsive in any other manner indicated below.

### **PENDING CLAIMS**

Claims 1-15 were pending, under consideration and subjected to examination in the Office Action. Appropriate claims have been amended, canceled and/or added (without prejudice or disclaimer) in order to adjust a clarity and/or focus of Applicant's claimed invention. That is, such changes are unrelated to any prior art or scope adjustment and are simply refocused claims in which Applicant is present interested. At entry of this paper, Claims 1-3 and 16-20 will be pending for further consideration and examination in the application.

### **REJECTION UNDER 35 USC '103**

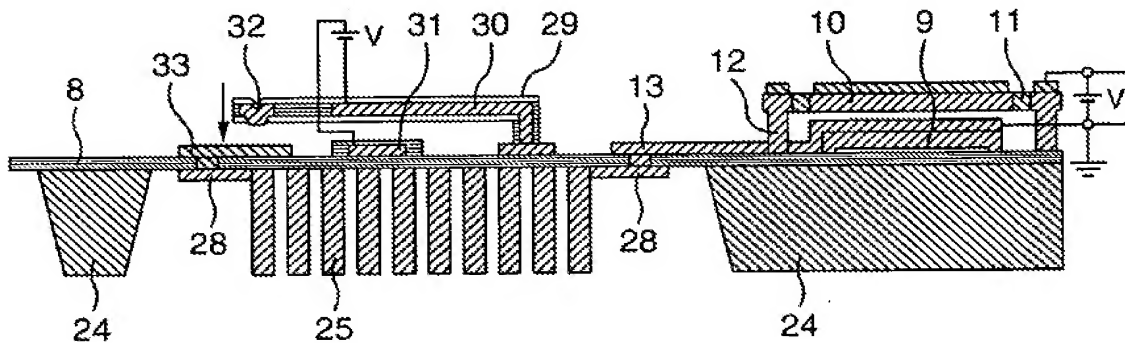
The 35 USC '103 rejection of claims is respectfully traversed. However, such rejections have been rendered obsolete by the present clarifying amendments to Applicant's claims, and accordingly, traversal arguments are not appropriate at this time. However, Applicant respectfully submits the following to preclude renewal of any such rejections against Applicant's clarified claims.

All descriptions of Applicant's disclosed and claimed invention, and all descriptions and rebuttal arguments regarding the applied prior art, as previously submitted by Applicant in any form, are repeated and incorporated hereat by reference. Further, all Office Action statements regarding the prior art rejections are

respectfully traversed. As additional arguments, Applicant respectfully submits the following remarks supplied from Applicant's foreign representative.

In Applicant's present invention, a variable capacitor (and a switch) is formed on a main surface of a substrate, whereas fixed capacitors are directly formed on an opposite side of the main surface using a MEMS process. More particularly, Applicant's **FIG. 5** (reproduced herewith for convenience) illustrates an

**FIG. 5**



example such arrangement. That is, structures 25 on a lower side of a substrate 8 pertain to (MEMS-process) fixed capacitors, while structures 9, 10 on an opposite upper side of the substrate 8 pertain to a (MEMS-process) variable capacitor.

Because of such structure, Applicant's present invention has advantages that since elements having a movable portion are formed on the same side, manufacturing is easy and can be made effectively. Further, since the fixed capacitors are formed by using MEMS process, the fixed capacitor having a large area can be formed. Because of this, total wiring length can be shortened, so that influence by parasitic components in an equivalent circuit can be reduced. (Page 7, lines 16-26)

The advantages above mentioned cannot be obtained in the references. As is clear from the above, the present invention is very different from the references.

More particularly, in Eckl (US2003/0218514), there is no disclosure concerning an arrangement of a variable capacitor and a fixed capacitor.

In Kuo (US2004/0016995), there is no disclosure concerning the art of arranging components produced in MEMS process on the opposite side of the main surface.

Such references (taken individually, or in combination) do not cure each other's deficiencies, and further, no other reference cures such deficiencies mentioned above with respect to such references. Accordingly, it is respectfully submitted that the applied and/or know references (whether taken individually, or in combination) would not have disclosed or suggested Applicant's claimed invention.

Accordingly, the present invention should be regarded as being patentable over the references.

As a result of all of the foregoing, it is respectfully submitted that the applied art (taken alone and in the Office Action combinations) would not support a '103 obviousness-type rejection of Applicant's claims. Accordingly, reconsideration and withdrawal of such '103 rejection, and express written allowance of all of the '103 rejected claims, are respectfully requested.

### **EXAMINER INVITED TO TELEPHONE**

The Examiner is herein invited to telephone the undersigned attorneys at the local Washington, D.C. area telephone number of 703/312-6600 for discussing any Examiner's Amendments or other suggested actions for accelerating prosecution and moving the present application to allowance.

### **RESERVATION OF RIGHTS**

It is respectfully submitted that any and all claim amendments and/or cancellations submitted within this paper and throughout prosecution of the present application are without prejudice or disclaimer. That is, any above statements, or any present amendment or cancellation of claims (all made without prejudice or disclaimer), should not be taken as an indication or admission that any objection/rejection was valid, or as a disclaimer of any scope or subject matter. Applicant respectfully reserves all rights to file subsequent related application(s) (including reissue applications) directed to any/all previously claimed limitations/features which have been subsequently amended or cancelled, or to any/all limitations/features not yet claimed, i.e., Applicant continues (indefinitely) to maintain no intention or desire to dedicate or surrender any limitations/features of subject matter of the present application to the public.

### **CONCLUSION**

In view of the foregoing amendments and remarks, Applicant respectfully submits that the claims listed above as presently being under consideration in the application are now in condition for allowance.

To the extent necessary, Applicant petitions for an extension of time under 37 CFR '1.136. Authorization is herein given to charge any shortage in the fees, including extension of time fees and excess claim fees, to Deposit Account No. 01-2135 (Case No. 500.43521X00) and please credit any excess fees to such deposit account.

Based upon all of the foregoing, allowance of all presently-pending claims is respectfully requested.

Respectfully submitted,

ANTONELLI, TERRY, STOUT & KRAUS, LLP

/Paul J. Skwierawski/  
Paul J. Skwierawski  
Registration No. 32,173

PJS/slk  
(703) 312-6600